

§ 4.88c

38 CFR Ch. I (7–1–11 Edition)

	Rating
NOTE (1): The term "approved medication(s)" includes medications prescribed as part of a research protocol at an accredited medical institution.	
NOTE (2): Psychiatric or central nervous system manifestations, opportunistic infections, and neoplasms may be rated separately under appropriate codes if higher overall evaluation results, but not in combination with percentages otherwise assignable above.	
6354 Chronic Fatigue Syndrome (CFS):	
Debilitating fatigue, cognitive impairments (such as inability to concentrate, forgetfulness, confusion), or a combination of other signs and symptoms:	
Which are nearly constant and so severe as to restrict routine daily activities almost completely and which may occasionally preclude self-care	100
Which are nearly constant and restrict routine daily activities to less than 50 percent of the pre-illness level, or; which wax and wane, resulting in periods of incapacitation of at least six weeks total duration per year	60
Which are nearly constant and restrict routine daily activities to 50 to 75 percent of the pre-illness level, or; which wax and wane, resulting in periods of incapacitation of at least four but less than six weeks total duration per year	40
Which are nearly constant and restrict routine daily activities by less than 25 percent of the pre-illness level, or; which wax and wane, resulting in periods of incapacitation of at least two but less than four weeks total duration per year	20
Which wax and wane but result in periods of incapacitation of at least one but less than two weeks total duration per year, or; symptoms controlled by continuous medication	10
NOTE: For the purpose of evaluating this disability, the condition will be considered incapacitating only while it requires bed rest and treatment by a physician.	

[61 FR 39875, July 31, 1996]

§ 4.88c Ratings for inactive nonpulmonary tuberculosis initially entitled after August 19, 1968.

	Rating		Rating
For 1 year after date of inactivity, following active tuberculosis	100	Where there are existing pulmonary and nonpulmonary conditions, the total rating for the 1 year, after attainment of inactivity, may not be applied to both conditions during the same period. However, the total rating during the 1-year period for the pulmonary or for the nonpulmonary condition will be utilized, combined with evaluation for residuals of the condition not covered by the 1-year total evaluation, so as to allow any additional benefit provided during such period.	
Thereafter: Rate residuals under the specific body system or systems affected.			
Following the total rating for the 1 year period after date of inactivity, the schedular evaluation for residuals of nonpulmonary tuberculosis, <i>i.e.</i> , ankylosis, surgical removal of a part, etc., will be assigned under the appropriate diagnostic code for the residual preceded by the diagnostic code for tuberculosis of the body part affected. For example, tuberculosis of the hip joint with residual ankylosis would be coded 5001–5250. Where there are existing residuals of pulmonary and nonpulmonary conditions, the evaluations for residual separate functional impairment may be combined.			

[34 FR 5062, Mar. 11, 1969. Redesignated at 59 FR 60902, Nov. 29, 1994]

§ 4.89 Ratings for inactive nonpulmonary tuberculosis in effect on August 19, 1968.

Public Law 90–493 repealed section 356 of title 38, United States Code which provided graduated ratings for inactive tuberculosis. The repealed section, however, still applies to the case of any veteran who on August 19, 1968, was receiving or entitled to receive compensation for tuberculosis. The use of the protective provisions of Pub. L. 90–493 should be mentioned in the discussion portion of all ratings in which these provisions are applied. For use in rating cases in which the protective provisions of Pub. L. 90–493 apply, the former evaluations are retained in this section.

	Rating		Rating
For 2 years after date of inactivity, following active tuberculosis, which was clinically identified during service or subsequently	100	Thereafter, for 4 years, or in any event, to 6 years after date of inactivity	50

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	Rat- ing		Rat- ing
Thereafter, for 5 years, or to 11 years after date of inactivity	30	The graduated ratings for nonpulmonary tuberculosis will not be combined with residuals of nonpulmonary tuberculosis unless the graduated rating and the rating for residual disability cover separate functional losses, e.g., graduated ratings for tuberculosis of the kidney and residuals of tuberculosis of the spine. Where there are existing pulmonary and nonpulmonary conditions, the graduated evaluation for the pulmonary, or for the nonpulmonary, condition will be utilized, combined with evaluations for residuals of the condition not covered by the graduated evaluation utilized, so as to provide the higher evaluation over such period.	
Thereafter, in the absence of a schedular compensable permanent residual	0	The ending dates of all graduated ratings of nonpulmonary tuberculosis will be controlled by the date of attainment of inactivity.	
Following the total rating for the 2-year period after date of inactivity, the schedular evaluation for residuals of nonpulmonary tuberculosis, <i>i.e.</i> , ankylosis, surgical removal of a part, etc., if in excess of 50 percent or 30 percent will be assigned under the appropriate diagnostic code for the specific residual preceded by the diagnostic code for tuberculosis of the body part affected. For example, tuberculosis of the hipjoint with residual ankylosis would be coded 5001-5250.		These ratings are applicable only to veterans with nonpulmonary tuberculosis active on or after October 10, 1949.	

[29 FR 6718, May 22, 1964, as amended at 34 FR 5062, Mar. 11, 1969; 43 FR 45361, Oct. 2, 1978]

THE RESPIRATORY SYSTEM

§ 4.96 Special provisions regarding evaluation of respiratory conditions.

(a) *Rating coexisting respiratory conditions.* Ratings under diagnostic codes 6600 through 6817 and 6822 through 6847 will not be combined with each other. Where there is lung or pleural involvement, ratings under diagnostic codes 6819 and 6820 will not be combined with each other or with diagnostic codes 6600 through 6817 or 6822 through 6847. A single rating will be assigned under the diagnostic code which reflects the predominant disability with elevation to the next higher evaluation where the severity of the overall disability warrants such elevation. However, in cases protected by the provisions of Pub. L. 90-493, the graduated ratings of 50 and 30 percent for inactive tuberculosis will not be elevated.

(b) *Rating "protected" tuberculosis cases.* Public Law 90-493 repealed section 356 of title 38, United States Code which had provided graduated ratings for inactive tuberculosis. The repealed section, however, still applies to the case of any veteran who on August 19, 1968, was receiving or entitled to receive compensation for tuberculosis. The use of the protective provisions of Pub. L. 90-493 should be mentioned in the discussion portion of all ratings in which these provisions are applied. For application in rating cases in which the protective provisions of Pub. L. 90-493 apply the former evaluations pertaining to pulmonary tuberculosis are retained in § 4.97.

(c) *Special monthly compensation.* When evaluating any claim involving complete organic aphonia, refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation. Footnotes in the schedule indicate conditions which potentially establish entitlement to special monthly compensation; however, there are other conditions in this section which under certain circumstances also establish entitlement to special monthly compensation.

(d) *Special provisions for the application of evaluation criteria for diagnostic codes 6600, 6603, 6604, 6825-6833, and 6840-6845.* (1) Pulmonary function tests (PFT's) are required to evaluate these conditions except:

(i) When the results of a maximum exercise capacity test are of record and are 20 ml/kg/min or less. If a maximum exercise capacity test is not of record, evaluate based on alternative criteria.

(ii) When pulmonary hypertension (documented by an echocardiogram or cardiac catheterization), cor pulmonale, or right ventricular hypertrophy has been diagnosed.

(iii) When there have been one or more episodes of acute respiratory failure.

(iv) When outpatient oxygen therapy is required.